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HAROLD B. WILLEY,

IN THE

Supreme Court of the United States

OCTOBER TERM, 1952

No. ~~762~~ 48

BUILDING TRADES COUNCIL, ET AL.,
Petitioners,

v.

KINARD CONSTRUCTION COMPANY,
Respondent.

SUPPLEMENTAL MEMORANDUM

HENRY A. BRADSHAW,
GEORGE E. BARNETT,
E. B. HALTOM, JR.,
Florence, Alabama.

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RANSDELL INC. WASHINGTON, D. C.

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To the Honorable, the Justices of the Supreme Court of the United States:

Counsel for Petitioners consider it their duty, particularly in view of the fact that Respondent apparently will make no reply to this Petition, to clarify any question that may exist in respect to the mootness of this case. Under the permament decree herein appealed from Petitioners are "perpetually enjoined from endeavoring to compel appellant (complainant) to coerce its employees to join some one of appellee unions, by picketing its premises, or adjacent territory, where appellant is engaged in the construction of the two housing projects in Russellville, Alabama."

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At the present time, the actual construction of the two housing developments is substantially, but not entirely completed. See the affidavit attached hereto as Exhibit "A," the original of which has been filed with the Clerk of this Court. There still remains some minor finishing work, plus all of the landscaping. In addition, as seen from the affidavit, Respondent Kinard Construction Company is under contractual obligation to make such alterations, repairs and additions for a period of one year after construction is completed as may be necessary to insure that the construction has been done according to the plans and specifications contained in the building contract. Accordingly, it is apparent that even though the injunction be read to limit the restraint on peaceful picketing to construction of these particular buildings, such construction, under the building contract, cannot be deemed entirely completed until one year after all of the construction is completed. As before stated, all of the initial construction has not been completed even as of the present date.

There is this further consideration involved in any question of mootness raised pursuant to an injunction restraining peaceful picketing at the site of any building or construction project. In the vast majority of such cases, construction would have been fully completed by the time an appeal from an injunction against picketing could have been taken and decided by this Court. This Court has accepted cases involving injunctions against peaceful picketing of a construction job, even though such job has been completed by the time the case was argued before this Court. *Montgomery Building and Construction Trades Council v. Ledbetter Erection Co.*, No. 43, Oct. Term, 1952, ——— U.S. ———.

Surely such important rights as those of free speech and assembly cannot be flaunted by the simple device of confining an injunction against peaceful picketing to the completion of the particular construction project at which the

picketing was attempted and then arguing that this Court could not consider the validity of the decree because the project had been completed and the case had become moot. In any event, a permanent injunction runs in perpetuity and not one can say whether there will or will not be further construction work, either by way of additions, alterations or repairs, performed at some time in the future in respect to any completed building project.

Respectfully submitted,

HENRY A. BRADSHAW,
GEORGE E. BARNETT,
E. B. HALTOM, JR.,
Florence, Alabama.

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Counsel for Petitioners.

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IN THE SUPREME COURT OF THE UNITED STATES

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Before me, Marie Wright, a Notary Public, in and for the State of Alabama, at Large, personally appeared Cliff Welch, of Florence, Alabama, who being by me first duly sworn doeth depose and say as follows:

My name is Cliff Welch. I am a resident of the City of Florence, Lauderdale County, Alabama, and am employed by the architectural firm of TURNER & NORTHINGTON whose principal offices are in the City of Florence, Alabama.

I have knowledge that TURNER & NORTHINGTON are the architects for the two low income housing projects being constructed in the City of Russellville, Franklin County, Alabama, by Kinard Construction Company, Incorporated; one of the projects is known as Ala. 60-1, and is commonly called the White Project, and one is known as Ala. 60-2, and is commonly called the Colored Project;

In my employment with TURNER & NORTHINGTON, I have been and still am the chief inspector for said architects on these particular low income housing projects, as well as others in different towns and cities, and in that capacity, I have been and still am familiar and cognisant with the progress of construction of these Russellville projects, and the status thereof.

I have knowledge that Kinard Construction Company has not as of this date fully completed its contracts for the construction of the said two housing projects in Russellville, Alabama, and that said contractor will not be fully relieved of its contractual duties

pertaining thereto for some months from this date; the construction of the actual housing units themselves on both projects has been substantially completed by the contractor. The contractor will be held responsible for landscape work during the guarantee period which terminates November 15, 1953, at which time all shrubs must be in good healthy condition and the lawn areas must be fully covered with bermuda grass.

I further have knowledge that under its said contracts with Russellville Housing Authority, Incorporated, that Kinard Construction Company is subject for a period of one year from the substantial completion date of the contracts to being recalled to said projects to perform corrective work, repairs, alterations, et cetera, and in my opinion as chief inspector of these projects for TURNER & NORTHINGTON, based upon my experience with other similar housing projects, there is some likelihood that Kinard Construction Company will be back at the said project sites from time to time during the coming few months for the purpose of performing corrective work and the like as above stated.

Clifton Welch
Cliff Welch

Sworn to and subscribed before me on this 8th day of May, 1953, as witness my hand and official seal.

Marie Wright
Marie Wright
Notary Public, State of Alabama
at Large